

OTIS DRINKARD

AUGUST 31, 1960.—Ordered to be printed

Mr. EASTLAND, from the Committee on the Judiciary, submitted the following

R E P O R T

[To accompany H.R. 9715]

The Committee on the Judiciary, to which was referred the bill (H.R. 9715) for the relief of Otis Drinkard, having considered the same, reports favorably thereon, without amendment, and recommends that the bill do pass.

PURPOSE

The purpose of the bill is to pay the sum of \$10,000 to a trustee for the benefit of Otis Drinkard, of California, and to provide that said trustee shall be appointed by a court of competent jurisdiction to supervise the expenditure of that amount in the best interests of the said Otis Drinkard. The payment shall be compensation for the loss of the claimant's right arm approximately 3 inches below the shoulder joint as a result of injuries sustained by him on April 8, 1959, while he was operating an extractor in the institutional laundry at the Federal Prison Camp, Tucson, Ariz.

STATEMENT

The Department of Justice has no objection to the enactment of the bill.

In a report to the Congress, dated May 22, 1960, printed in full below, the Department of Justice set forth the facts in the case as follows:

The files of the Department disclose that the claimant was convicted on February 24, 1958, in the southern district of

California, for violation of the National Firearms Act. He was sentenced under the Youth Corrections Act (18 U.S.C. 5010(b)) and sent to the Federal Correctional Institution at Englewood, Colo. A few months later the claimant was transferred to the Federal Prison Camp at Tucson, Ariz. While employed in the institutional laundry at Tucson, Mr. Drinkard was injured as a result of an accident which occurred while he was operating an extractor. His injuries necessitated the amputation of his right arm approximately 3 inches below the shoulder joint. Subsequently, he was fitted with a prosthetic arm and given special training in its use.

Mr. Drinkard, because of his status as a prisoner, has no standing to sue the U.S. Government for his injuries under the Federal Tort Claims Act. Although inmates of Federal prisons and correctional institutions employed in Federal Prison Industries are compensated for injuries sustained by them in their employment, there is no authority for the payment of compensation to inmates injured while performing other tasks throughout the Institution, such as the one in which the claimant was engaged at the time of his injury. There is no authority in the law, therefore, for granting compensation to the claimant for his injuries except through private relief legislation.

In favorably reporting the bill, the Committee on the Judiciary of the House of Representatives commented as follows:

This committee has previously taken favorable action on bills providing similar relief. In the light of the circumstances of this injury the committee further feels that under the circumstances of this case the money provided for in this bill should be paid to a court-appointed trustee in order to insure that the money will be expended in the best interest of Mr. Drinkard, and to insure that he will gain the maximum benefit from the amount provided.

The committee believes that the bill, as recommended by the Committee on the Judiciary of the House of Representatives and passed by the House of Representatives, is meritorious and recommends it favorably.

Attached and made a part of this report is a letter, dated May 27, 1960, from the Department of Justice.

U.S. DEPARTMENT OF JUSTICE,
Washington, D.C., May 27, 1960.

HON. EMANUEL CELLER,
*Chairman, Committee on the Judiciary,
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice concerning (H.R. 9715) for the relief of Otis Drinkard.

The bill would provide for the payment of the sum of \$10,000 to Otis Drinkard as compensation for injuries sustained by him on

April 8, 1959, while working in the institutional laundry at the Federal Prison Camp, Tucson, Ariz.

The files of the Department disclose that the claimant was convicted on February 24, 1958, in the southern district of California, for violation of the National Firearms Act. He was sentenced under the Youth Corrections Act (18 U.S.C. 5010(b)) and sent to the Federal Correctional Institution at Englewood, Colo. A few months later the claimant was transferred to the Federal Prison Camp at Tucson, Ariz. While employed in the institutional laundry at Tucson, Mr. Drinkard was injured as a result of an accident which occurred while he was operating an extractor. His injuries necessitated the amputation of his right arm approximately 3 inches below the shoulder joint. Subsequently, he was fitted with a prosthetic arm and given special training in its use.

Mr. Drinkard, because of his status as a prisoner, has no standing to sue the U.S. Government for his injuries under the Federal Tort Claims Act. Although inmates of Federal prisons and correctional institutions employed in Federal Prison Industries are compensated for injuries sustained by them in their employment, there is no authority for the payment of compensation to inmates injured while performing other tasks throughout the institution, such as the one in which the claimant was engaged at the time of his injury. There is no authority in the law, therefore, for granting compensation to the claimant for his injuries except through private relief legislation.

Whether the claimant in this case should be granted the relief sought involves a question of legislative policy concerning which the Department of Justice prefers to make no recommendation.

The Bureau of the Budget has advised that there is no objection to the submission of this report.

Sincerely yours,

JOHN D. CALHOUN,
Acting Deputy Attorney General.

○

